



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. OSHA-2020-0008]

RIN 1218-AD26

Powered Industrial Trucks Design Standard Update

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: OSHA proposes updating the design and construction requirements of the powered industrial trucks standards for general industry and construction by incorporating by reference the applicable provisions of the most relevant national consensus standards from the American National Standards Institute/Industrial Truck Standards Development Foundation (ANSI/ITSDF). OSHA also proposes allowing employers to use powered industrial trucks not constructed in accordance with those national consensus standards incorporated by reference in the OSHA standards if the employer can demonstrate that the truck they use was designed and constructed in a manner that provides employee protection that is at least as effective as the national consensus standards incorporated by reference in OSHA's standards.

DATES: Submit written comments on this proposed rule, hearing requests, and other information (including comments on the information-collection (paperwork) determination described under section III.C. of the preamble) by [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. All submissions must bear a postmark or provide other evidence of the submission date.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at <https://www.regulations.gov>, the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Docket: To read or download comments or other material in the docket go to <https://www.regulations.gov>. Documents in the docket are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA-2020-0008). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at www.regulations.gov. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security Numbers and birthdates.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Contact Frank Meilinger, OSHA Office of Communications, telephone: (202) 693-1999, email: meilinger.francis2@dol.gov.

Technical inquiries: Contact Kenneth Stevanus, Directorate of Standards and Guidance, telephone: (202) 693-2260; fax: (202) 693-1663; email: stevanus.ken@dol.gov.

Copies of this Federal Register document. Electronic copies of these documents are available at OSHA's webpage at <https://www.osha.gov>.

SUPPLEMENTARY INFORMATION:

Table of Contents:

- I. Background
 - A. OSHA's Powered Industrial Truck Standards
 - 1. General Industry
 - 2. Construction
 - B. Consensus Standards for Powered Industrial Trucks
- II. Summary and Explanation of the Proposed Revisions to the Powered Industrial Trucks Standards
 - A. Scope of the Proposed Rule
 - B. Proposed Changes
 - 1. Updating References to ANSI B56 Consensus Standards
 - 2. Alternative Method of Compliance for Existing Equipment
 - 3. Alternative Method of Compliance for Equipment Manufactured on or After the Effective Date of the Final Rule
 - 4. Updates to Other Design and Construction Provisions
 - C. Incorporation by Reference and Reasonable Availability of the ANSI Standard to the Public
- III. Procedural Determinations
 - A. Legal Considerations
 - B. Preliminary Economic Analysis and Regulatory Flexibility Act Certification
 - C. OMB Review under the Paperwork Reduction Act of 1995
 - D. Federalism
 - E. State Plan States
 - F. Unfunded Mandates Reform Act of 1995
 - G. Consultation and Coordination with Indian Tribal Governments
 - H. Consultation with the Advisory Committee on Construction Safety and Health

I. Background

This proposed rulemaking is part of a series of regulatory projects by OSHA to update standards to reflect the current versions of consensus and national industry standards (see, e.g., 74 FR 46350, September 9, 2009). These projects include updating or revoking outdated national consensus and industry standards incorporated by reference, and updating regulatory text of current OSHA standards that directly adopted the language of national consensus and industry standards that have now become outdated.

A. OSHA's Powered Industrial Truck Standards

1. General Industry.

OSHA's general industry powered industrial trucks standard at 29 CFR 1910.178 contains safety requirements relating to fork trucks, tractors, platform lift trucks, motorized hand trucks, and other specialized industrial trucks powered by electric motors

or internal combustion engines. The standard requires that all new powered industrial trucks acquired and used by an employer meet the design and construction requirements established in the American National Standard for Powered Industrial Trucks, Part II, ANSI B56.1-1969. 29 CFR 1910.178(a)(2). In addition, OSHA's standard requires that all approved trucks bear a label or some other identifying mark indicating approval by a nationally recognized testing laboratory, as also required by paragraph 405 of that same ANSI standard. 29 CFR 1910.178(a)(3).

OSHA initially adopted the powered industrial trucks standard for general industry on May 29, 1971 (36 FR 10613), pursuant to section 6(a) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651, 655),¹ primarily based on the 1969 edition of ANSI's Safety Standard for Powered Industrial Trucks, B56.1.

2. Construction.

In 1971, under section 6(a) of the OSH Act, OSHA adopted existing Federal standards issued under section 107 of the Contract Work Hours and Safety Standards Act as OSHA construction standards (36 FR 7340, April 17, 1971; 36 FR 25232, December 30, 1971), including provisions covering powered industrial trucks used in construction. OSHA's powered industrial trucks standard can be found at 29 CFR 1926.602(c), Lifting and hauling equipment. In the portion relevant to this rulemaking, § 1926.602(c)(1)(v) requires that all high-lift rider industrial trucks² be equipped with overhead guards that meet the configuration and structural requirements as defined in paragraph 421 in Part II of ANSI B56.1-1969. Section 1926.602(c)(1)(vi) states that all industrial trucks in use must meet the applicable requirements of design, construction, stability, inspection, testing, maintenance, and operation contained in ANSI B56.1-1969,

¹ Section 6(a) directed OSHA, during the first two years after the OSH Act became effective, to promulgate as an occupational safety and health standard any national consensus standard or any established Federal standard if such promulgation would improve employee safety or health.

² A "high-lift truck" is defined in ANSI B56.1-1969, Appendix A, as "A self-loading truck equipped with an elevating mechanism designed to permit tiering. Popular types are high-lift fork truck, high-lift ram truck, high-lift boom truck, high-lift clamp truck, and high-lift platform truck."

Safety Standards for Powered Industrial Trucks.

B. Consensus Standards for Powered Industrial Trucks

Since OSHA adopted the 1969 version of the ANSI B56.1, ANSI has revised its B56.1 consensus standard twelve times (in 1975, 1983, 1988, 1993, 2000, 2004, 2005, 2009, 2012, 2016, 2018, and 2020). Starting in 1978, ANSI reorganized its B56 consensus standard by narrowing the scope of B56.1 to a subset of previously covered equipment and adding new volumes to cover other truck types that had previously been covered under B56.1. Specifically, ANSI B56.1, which originally covered powered industrial trucks generally, now only covers Low Lift and High Lift Trucks. ANSI B56.5 covers Driverless, Automatic Guided Industrial Vehicles and Automated Functions of Manned Industrial Vehicles; and ANSI B56.6 covers Rough Terrain Forklift Trucks. ANSI has periodically published revisions to each of these B56 volumes, but at intervals different from the B56.1 revisions. As of the date of this notice, the most current editions are ANSI B56.1-2020 (effective March 27, 2022), ANSI/ B56.5-2019, and ANSI B56.6-2021 (effective March 27, 2022).³

Together, these three B56 volumes cover all powered industrial trucks that are currently in the scope of OSHA's standards (§§ 1910.178(a)(1) and 1926.602(c)(1)(vi)) and encompass all of the equipment originally covered by the consensus standard cited in OSHA's existing standards (ANSI B56.1-1969). OSHA is not aware of any other consensus standards covering powered industrial trucks in its scope, but requests comments on whether any other such standards exist and should be referenced by OSHA.

The following is a summary of each of the ANSI/ITSDF B56 consensus standards discussed in this NPRM.

³ Since 2005, the Industrial Truck Standards Development Foundation (ITSDF), an ANSI-accredited standards-developing organization, has developed and published the national consensus standards for industrial trucks. For simplicity, the agency may refer to ANSI/ITSDF standards as ANSI standards throughout this document.

ANSI/ITSDF B56.1-2020, Safety Standard for Low Lift and High Lift Trucks, defines the safety requirements relating to the elements of design, operation, and maintenance of low lift and high lift powered industrial trucks controlled by a riding or walking operator, and intended for use on compacted, improved surfaces.

ANSI/ITSDF B56.5-2019, Safety Standard for Driverless, Automatic Guided Industrial Vehicles and Automated Functions of Manned Industrial Vehicles, defines the safety requirements relating to the elements of design, operation, and maintenance of powered, not mechanically restrained, unmanned automatic guided industrial vehicles and the system of which the vehicles are a part. It also applies to vehicles originally designed to operate exclusively in a manned mode but which are subsequently modified to operate in an unmanned, automatic mode, or in a semiautomatic, manual, or maintenance mode.

ANSI/ITSDF B56.6-2021, Safety Standard for Rough Terrain Forklift Trucks, defines the safety requirements relating to the elements of design, operation, and maintenance of rough terrain forklift trucks. These trucks are intended for operation on unimproved natural terrain as well as the disturbed terrain of construction sites.

II. Summary and Explanation of the Proposed Revisions to the Powered Industrial Trucks Standards

This proposed rulemaking would update the references to national consensus standards in OSHA's powered industrial truck design and construction requirements applicable to general industry work (29 CFR 1910.178(a)(2) & (3)) and construction work (29 CFR 1926.602(c)(1)(v) & (vi)). It would also update the general incorporation by reference section for each of these standards (i.e., 29 CFR 1910.6 and 1926.6) to include the same ANSI consensus standards and to note where they can be obtained. OSHA is also proposing an alternative method of compliance for employers that use trucks that are not manufactured in accordance with any of the consensus standards incorporated by reference in the proposed standard.

A. Scope of the Proposed Rule

The scope of this proposed rulemaking includes the equipment covered by the three ANSI volumes currently in use (B56.1-2020, Low Lift and High Lift Trucks; B56.5-2019, Guided Industrial Vehicles; B56.6-2021, Rough Terrain Forklift Trucks).⁴ This scope is consistent with OSHA's previous determination made in its 1998 rulemaking that because the initial OSHA standard issued in 1971 had adopted the ANSI B56.1-1969 provisions under section 6(a) of the Act, the scope of § 1910.178 must be the same as the scope of the original source standard, ANSI B56.1-1969. See 63 FR 66255, December 1, 1998 (training standard rulemaking).

This proposed rule only updates the references to the design and construction requirements in the OSHA standards for general industry and construction. Consequently, provisions in OSHA's industrial trucks standards that do not relate to design or construction will continue to reference only the 1969 edition of ANSI B56.1. For example, § 1926.602(c)(1)(vi) includes operator requirements on stability, inspection, testing, maintenance, and operation, which would not be amended in this proposal to reference more current ANSI standards.

Currently, § 1926.602(c)(1)(v) requires that all high lift rider industrial trucks used in construction be equipped with overhead guards that meet the configuration and structural requirements in paragraph 421 of ANSI B56.1-1969. The configuration and structural requirements for overhead guards in paragraph 421 are part of the design and construction provisions of ANSI B56.1-1969. Therefore, the proposed rule would also update § 1926.602(c)(1)(v) by adding a cross-reference to the revised requirements in § 1926.602(c)(1)(vi).

Furthermore, the proposed rule would update § 1910.178(a)(3), which requires that approved trucks bear a label or other identification mark indicating approval by a

⁴ Equipment covered by ANSI B56.7, Safety Standard for Industrial Crane Trucks, was originally covered by ANSI B56.1-1969. However, ANSI B56.7 was discontinued in 1992 and therefore OSHA is not including ANSI B56.7 in this proposed rulemaking.

testing laboratory in accordance with paragraph 405 of ANSI B56.1-1969. The proposed rule would add reference to the latest ANSI provisions in table 1 to § 1910.178(a)(2), but would maintain the current reference to paragraph 405 of ANSI B56.1-1969. OSHA believes that labels and other identification marks on powered industrial trucks have not significantly changed since the adoption of the 1969 edition of ANSI B56.1 and that the nameplates and markings requirements in the latest ANSI versions in table 1 are well established. OSHA invites comments on this aspect of the proposed rule.

B. Proposed Changes

This proposed rule would update the references in 29 CFR 1910.178(a) and 29 CFR 1926.602(c) to recognize the design and construction requirements in the latest editions of the ANSI B56 consensus standards for powered industrial trucks (i.e., ANSI B56.1-2020, Safety Standards for Low Lift and High Lift Trucks; ANSI B56.5-2019, Safety Standards for Driverless, Automatic Guided Industrial Vehicles and Automated Functions of Manned Industrial Vehicles; ANSI B56.6-2021, Safety Standards for Rough Terrain Forklift Trucks). For both general industry and construction, OSHA would incorporate by reference these latest ANSI B56 consensus standards. The proposed rule would also maintain the existing reference in 29 CFR 1910.178(a) and 29 CFR 1926.602(c) to ANSI B56.1-1969, but only for trucks manufactured prior to the effective date of the final rule. OSHA is proposing that the final rule will go into effect 30 days after its publication. As part of this rulemaking, OSHA would also add an alternative method of compliance for employers that use trucks that are not manufactured in accordance with any of the consensus standards incorporated by reference in the proposed standard.

1. Updating References to ANSI B56 Consensus Standards.

The design and construction compliance requirements in this proposed rule are not identical for trucks manufactured prior to the effective date of the final rule, and for

trucks manufactured on or after that date. For both categories of equipment—trucks manufactured before, on, or after the effective date of the final rule, the proposed rule would incorporate by reference the most recent versions of the ANSI B56 standards applicable to powered industrial trucks, ANSI B56.1-2020, ANSI B56.5-2019, and ANSI B56.6-2021, as shown in table 1 to §§ 1910.178(a)(2) and 1926.602(c)(1)(vi). The proposed rule, however, would maintain the current reference to ANSI B56.1-1969 only for equipment manufactured before the effective date of the final rule. Powered industrial trucks manufactured prior to the effective date of the final rule would be required to meet the design and construction requirements established in either (1) the 1969 edition of the ANSI B56.1 consensus standard (i.e., ANSI B56.1-1969), or (2) the more recent and applicable ANSI B56 standard in table 1 (i.e., ANSI B56.1-2020, ANSI B56.5-2019, or ANSI B56.6-2021).

For all powered industrial trucks manufactured on or after the effective date of the final rule, the proposed rule would require that such equipment meet the design and construction requirements established in the applicable ANSI B56 consensus standard in table 1. Because different powered industrial trucks are now covered by different ANSI consensus standards, employers would need to ensure that the equipment they use complies with the applicable ANSI consensus standard in table 1. For example, for trucks manufactured on or after the effective date of the final rule, a high-lift truck must comply with ANSI B56.1-2020; a driverless industrial truck must comply with ANSI B56.5-2019; and a rough terrain forklift must comply with ANSI B56.6-2021.

2. Alternative Method of Compliance for Existing Equipment.

For both general industry and construction, OSHA's current design and construction requirements for powered industrial trucks mandate compliance with the ANSI B56.1-1969 standard, but OSHA is aware that over the past decades, manufacturers of this equipment have typically designed and constructed this equipment

to comply with more recent editions of the ANSI B56 standards. For example, a high-lift industrial truck manufactured in 1990 would typically be designed and constructed in compliance with ANSI B56.1-1988 rather than B56.1-1969. Consequently, in this proposed rule, OSHA is adding an alternative method of compliance for employers that use trucks manufactured before the effective date of the final rule that do not meet the design and construction requirements established in ANSI B56.1-1969 or in the applicable ANSI standard in table 1. Specifically, for both general industry and construction, the proposed rule would add a provision that allows employers to use powered industrial trucks manufactured before the effective date of the final rule as long as the employer can demonstrate that the design and construction of the truck is at least as protective as those designed and constructed in accordance with ANSI B56.1-1969 or the applicable ANSI standard in table 1. That is, employers would be able to acquire and use powered industrial trucks manufactured before the effective date of the final rule, whether they are designed and constructed in accordance with an ANSI consensus standard or a non-ANSI standard, so long as the employer can demonstrate that their design and construction provide employee protection that is at least equal to the protection provided by trucks that are designed and constructed in accordance with ANSI B56.1-1969 or the applicable ANSI B56 standard in table 1.

OSHA has used a similar approach in some other OSHA standards. For example, in several protective equipment standards (29 CFR 1910.133, 1910.135, and 1910.136; 29 CFR 1915.153, 1915.155, and 1915.156; 29 CFR 1917.91, 1917.93, and 1917.94; 29 CFR 1918.101, 1918.103, and 1918.104; and 29 CFR 1926.100 and 1926.102), the employer must ensure that the protective devices meet the construction requirements of one or more incorporated by reference ANSI standards or, alternatively, must show that the devices are at least as protective as protective devices constructed in accordance with the incorporated by reference ANSI standards.

OSHA has preliminarily determined that powered industrial trucks meeting the design and construction requirements of the applicable ANSI B56.1, B56.5, or B56.6 consensus standards not incorporated by reference in this proposed rule that were published after 1969 and before the applicable consensus standard in table 1, provide employee protection that is at least as protective as those designed and constructed in accordance with ANSI B56.1-1969. For ANSI B56.1, these include the design and construction requirements published in 1975, 1983, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1995, 2000, 2001, 2003, 2004, 2005, 2009, 2012, 2016, and 2018 (OSHA-2020-0008-0002). For ANSI B56.5, these include the design and construction requirements published in 1978, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 2004, and 2012 (OSHA-2020-0008-0003). For ANSI B56.6, these include the design and construction requirements published in 1978, 1987, 1988, 1990, 1991, 1992, 1994, 1998, 2002, 2005, 2005(R11), 2011, and 2016 (OSHA-2020-0008-0004).⁵ Hence, for an employer using a truck manufactured after 1969 but before the applicable ANSI standard in table 1 and designed and constructed according to one of these applicable non-incorporated ANSI B56.1, B56.5, and B56.6 consensus standards, the employer would be deemed to be in compliance with the design and construction requirements of the proposed rule.

OSHA has made a similar preliminary determination for the now discontinued ANSI B56.7, Safety Standard for Industrial Crane Trucks. That is, OSHA has determined that powered industrial trucks meeting the design and construction requirements in any version of ANSI B56.7 published between 1969 and 1992 (the date that ANSI provision was discontinued) provide employee protection that is at least as protective as those designed and constructed in accordance with ANSI B56.1-1969. This includes design and

⁵ For purposes of this rulemaking, applicable B56 consensus standards published after 1969 and before the consensus standards in table 1 also include those published by the American Society of Mechanical Engineers (ASME) or the ITSDF.

construction requirements in ANSI B56.7 published in 1982, 1987, 1988 addendum, and 1988 (reaffirmed in 1992). Thus, for example, an employer using an industrial crane truck designed and constructed in accordance with the 1988 (reaffirmed in 1992) standard would be deemed to be in compliance with the design and construction requirements of this proposed rule.

The agency believes that allowing equipment that complies with the design and construction requirements in these applicable ANSI B56 standards that are not incorporated by reference in this proposed rule would not reduce employee protection but, rather, would enhance employee safety and provide greater flexibility to employers. Thus, under the proposal, an employer with equipment designed and constructed in compliance with one of these standards would be able to show that they are at least as protective as equipment designed and constructed to ANSI B56.1-1969. OSHA invites public comments on powered industrial trucks built to the design and construction specifications in the ANSI B56 standards published after 1969 and before the applicable ANSI B56 standard in table 1, and OSHA's view that their design and construction requirements are at least as protective as the design and construction requirements in ANSI B56.1-1969. OSHA is not aware of any other non-ANSI consensus standards for powered industrial trucks published from 1969 to 2020, nor any powered industrial trucks designed and constructed in accordance with non-consensus standards, but requests comment on whether any other such standards or non-standard trucks exist, whether design and construction requirements in such standards or non-standard trucks provide equal or greater employee protection, and whether any such non-ANSI standards or non-standard trucks should be incorporated by reference in the revised OSHA standards for powered industrial trucks.

3. Alternative Method of Compliance for Equipment Manufactured on or After the Effective Date of the Final Rule.

The proposed rule also contains an alternative method of compliance for employers that use powered industrial trucks manufactured on or after the effective date of the final rule. As discussed above, OSHA's proposed rule would require these trucks to comply with the design and construction requirements in the applicable ANSI B56 standard in table 1 to §§ 1910.178(a)(2) and 1926.602(c)(1)(vi): ANSI B56.1-2020, ANSI B56.5-2019, or ANSI B56.6-2021. The proposed rule would add another provision that would allow employers to use powered industrial trucks manufactured on or after the effective date of the final rule if they can demonstrate that the design and construction of the trucks are at least as protective as powered industrial trucks that are designed and constructed in accordance with the applicable ANSI B56 standard in table 1. That is, an employer may use a powered industrial truck manufactured on or after the effective date of the final rule, so long as the employer can demonstrate that the design and construction of the truck—whether designed and constructed in accordance with a non-incorporated ANSI standard or a non-ANSI standard—are at least as protective as a truck designed and constructed in accordance with the applicable ANSI B56 standard: ANSI B56.1-2020, ANSI B56.5-2019, or ANSI B56.6-2021.

ANSI continues to update its B56 standards regularly and it is difficult for OSHA to provide timely corresponding updates in its standards through notice and comment rulemaking. Consequently, there is likely to be a period of years during which OSHA's standards require compliance with an outdated ANSI standard while industrial truck manufacturers are designing and constructing equipment in accordance with the newest ANSI standard or, possibly, other new non-ANSI consensus standards. To address this likely lag in OSHA regulatory updates, this proposal incorporates by references the most current editions of the applicable ANSI B56 standards as shown in table 1, but also would allow employers additional flexibility to use trucks that are manufactured in accordance with future editions of applicable consensus standards, including ANSI B56 standards, if

the employers can demonstrate that the design and construction of the truck provides employee protection equal to or greater than the design and construction requirements of the applicable ANSI standard in table 1. OSHA is not aware of any other current non-ANSI consensus standards that would provide equivalent protection to employees, but requests comment on whether any other such standards exist and should be referenced by OSHA in its standards.

OSHA anticipates that consensus-standard issuing bodies will aid in this new flexible approach and want employers to use powered industrial trucks designed and constructed according to the latest editions of their standards. Standard developing bodies typically have a summary of changes section in each new edition and also indicate in the margins where changes from the previous edition were made. The summary of changes also lists those changes they consider significant. These changes are intended to alleviate confusion, provide up-to-date protection for workers using powered industrial trucks, and give employers greater clarity and flexibility in complying with OSHA's standards as ANSI continues to update its standards.

OSHA notes that this proposed compliance alternative is somewhat similar to OSHA's longstanding policies regarding *de minimis* conditions. As set out in OSHA's Field Operations Manual, a *de minimis* condition includes a situation in which an employer complies with a proposed OSHA standard or a consensus standard rather than with the standard in effect at the time of the inspection, and the employer's action clearly provides equal or greater employee protection. See CPL 02-00-164, p. 4-28 (2020). OSHA documents such conditions as violations, but does not typically cite employers for these conditions. While a *de minimis* condition is still a violation of the standard, even if not cited, under the proposed rule an employer would be in compliance with the OSHA standard by demonstrating that the alternative national consensus standard is equally or more protective.

To assist the employer in demonstrating that trucks designed and constructed in accordance with future national consensus standards provide equal or greater protection, OSHA may consider periodically issuing guidance confirming a future national consensus standard's protectiveness in relation to the relevant ANSI standard listed in table 1. The agency may do this by either responding to the consensus-standard issuing bodies (e.g., ANSI) request for interpretation or some other means.

OSHA invites public comment on any aspect of this proposed rule. The agency is particularly interested in receiving comments on this new proposed approach of allowing trucks manufactured on or after the effective date of the final rule to satisfy the design and construction requirements of OSHA's powered industrial trucks standards if they are manufactured according to a future ANSI B56 standard or future non-ANSI consensus standard, provided that the employer can demonstrate that the design and construction of such trucks are at least as protective as the applicable ANSI standard in table 1 to §§ 1910.178(a)(2) and 1926.602(c)(1)(vi). Alternatively, should OSHA only require compliance with the design and construction requirements of the incorporated by reference of the applicable ANSI standard in table 1 and only allow for compliance with future consensus standards by incorporating by reference those new consensus standards through notice and comment rulemaking on an ongoing basis as they become available? OSHA also requests comment on what, if any, additional conditions should be required for an employer to make an equivalency showing for purposes of meeting the proposed alternative method of compliance. What should an employer be required to do to demonstrate that a truck is at least as protective as the design and construction requirements of the applicable ANSI standard in table 1? For example, would it be sufficient for an employer to rely on the truck manufacturer's certification that the truck is at least as protective as the applicable ANSI standard? What, if any, action should OSHA take to confirm a consensus standard's protectiveness in relation to the design and

construction requirements of the relevant ANSI standard in table 1? Relatedly, the agency welcomes comments on whether employers that rely on a future consensus standard should be required to demonstrate that the design and construction requirements of that consensus standard are at least as protective as the design and construction requirements in the applicable ANSI standard in table 1, or whether OSHA should bear the burden of establishing, as part of its prima facie case against an employer, that a powered industrial truck designed and constructed in accordance with a future national consensus standard provides less protection than a truck designed and constructed in accordance with the applicable ANSI standard in table 1.

4. Updates to Other Design and Construction Provisions.

Furthermore, in the powered industrial trucks standard for construction, § 1926.602(c)(1)(v) includes configuration and structural requirements for overhead guards on high lift rider trucks that are already required by the ANSI B56-1969 standard referenced in § 1926.602(c)(1)(vi). Therefore, the proposed rule would revise § 1926.602(c)(1)(v) by replacing the reference to paragraph 421 of ANSI B56.1-1969 with a cross-reference to the design requirements in § 1926.602(c)(1)(vi). This proposed change is not intended to eliminate the existing requirement in the construction standard that high lift rider trucks be equipped with overhead guards; instead, this proposed change aims to align the specific design requirements for overhead guards with the general design and construction requirements in the proposed rule. OSHA invites comment on whether the agency should move forward with this approach or whether it should delete § 1926.602(c)(1)(v) given that the design requirements for overhead guards on high lift rider trucks are already covered by § 1926.602(c)(1)(vi).

C. Incorporation by Reference and Reasonable Availability of the ANSI Standard to the Public

OSHA also proposes to update the general incorporation by reference section for each of these standards (i.e., 29 CFR 1910.6 and 29 CFR 1926.6) to reflect the incorporation of the relevant national consensus standards, summarized in section I.B of this preamble. OSHA believes that the ANSI/ITSDF standards, as well as any applicable ASME standards published after 1969 and before the applicable ANSI consensus standard in table 1 to §§ 1910.178(a)(2) and 1926.602(c)(1)(vi), are reasonably available to interested parties and can be purchased from one of the following sites in pdf form: ANSI (<https://webstore.ansi.org>), IHS Standards (<https://global.ihs.com>), or TechStreet (<https://www.techstreet.com>). If OSHA ultimately finalizes this rule, the agency will make all documents available for review by the public in accordance with OSHA's policies regarding availability of documents incorporated by reference. These documents are typically available in national and regional OSHA offices.

III. Procedural Determinations

A. Legal Considerations

The purpose of the OSH Act is to achieve to the extent possible safe and healthful working conditions for all employees. 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 654(b), 655(a) and (b). A safety or health standard is a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes "reasonably necessary or appropriate" to provide safe or healthful employment and places of employment. 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of section 652(8) of the OSH Act when a significant risk of material harm exists in the workplace and the standard would substantially reduce or eliminate that workplace risk. See *Indus. Union Dep't, AFL-CIO v. Am. Petroleum Inst.*, 448 U.S. 607 (1980).

Under Section 6(a) of the OSH Act, OSHA was given the authority for a period of two years from the effective date of the Act to adopt national consensus standards and established Federal standards as OSHA standards without following notice and comment rulemaking procedures. 29 U.S.C 655(a). Congress provided this authority so that OSHA would have a mechanism to begin immediately protecting the Nation's workers through mandatory standards. OSHA's powered industrial truck standards were among the many standards adopted under Section 6(a). Thus Congress determined that these adopted standards, including the powered industrial power standards, were reasonably necessary or appropriate within the meaning of Section 652(8). Moreover, worker protections under this proposed rule, if finalized, would be equal or greater than under the existing standards because powered industrial truck design and construction would have to be at least as protective as the current regulatory requirements. Accordingly, this proposal does not require an additional significant risk finding (see *Edison Elec. Inst. v. OSHA*, 849 F.2d 611, 620 (D.C. Cir. 1988)).

A safety standard must be technologically feasible. See *UAW v. OSHA*, 37 F.3d 665, 668 (D.C. Cir. 1994). A standard is technologically feasible when the protective measures it requires already exist, when available technology can bring the protective measures into existence, or when that technology is reasonably likely to develop. See *Am. Iron and Steel Inst. v. OSHA*, 939 F.2d 975, 980 (D.C. Cir. 1991). OSHA has preliminarily determined that the revisions in this proposal are technologically feasible because: (1) existing powered industrial trucks only need to comply with the 1969 version of ANSI's B56.1 standard; (2) existing powered industrial trucks are already manufactured according to an existing applicable ANSI B56 standard; and (3) future powered industrial trucks would only need to comply with the existing applicable ANSI standard in table 1.

A safety standard must also be economically feasible. See *Forging Indus. Ass'n v. Secretary of Labor*, 773 F.2d 1436, 1453 (4th Cir. 1985). Such a standard is economically feasible if industry can absorb or pass on the costs of compliance without threatening its long-term profitability or competitive structure. See *ATMI*, 452 U.S. at 530 n. 55; *AISI*, 939 F.2d at 980. As described below, OSHA has preliminarily determined that this proposal is economically feasible because it would impose no new costs on employers.

B. Preliminary Economic Analysis and Regulatory Flexibility Act Certification

OSHA has preliminarily determined that this proposed rule will impose no new costs on employers. The proposed rule is intended to accommodate existing industry practices for existing equipment manufacture and design, and to adapt to industry norms for future manufacture and design.

OSHA understands that powered industrial trucks are designed, tested, or manufactured in accordance with the latest version of ANSI B56 consensus standards, and, therefore, believes the proposed updates are consistent with the usual and customary practice of employers in the general and construction industries. Accordingly, the agency determined that incorporating by reference ANSI B56.1a-2018, ANSI B56.5-2019, and ANSI B56.6-2021 will not add a compliance burden for employers. In addition, because OSHA is not removing the reference to the 1969 version of the ANSI standard applicable to previously manufactured equipment, employers will be able to continue following that version of the consensus standard for existing equipment, and thus, employers will not occur any new compliance burdens. Going forward, OSHA anticipates that if standards developing organizations (SDO) were to publish a newer version of ANSI B56 in the future, an employer would need to show that equipment manufactured on or after the effective date of the final rule complied with the design and construction requirements of the applicable consensus standard in table 1 to §§ 1910.178(a)(2) and 1926.602(c)(1)(vi) or that the design and construction requirements of the new SDO standard would be at

least as protective as the applicable consensus standard in table 1. OSHA expects that in most cases SDOs would provide guidance to employers regarding this determination whenever the SDO issues a new standard (in order to encourage adoption of the new standard). OSHA also expects that affixing new data plates or markings on equipment or the certification of existing data plates or markings on equipment would be a usual and customary practice by employers when demonstrating compliance with newer versions of the consensus standard. OSHA invites public comment on its preliminary determination that the proposed rule will not result in any additional cost burden on employers. Specifically, the agency invites comment on the economic impacts of any future revisions to the ANSI B56 series of standards that affect equipment manufactured on or after the effective date of the final rule, thereby triggering compliance with the design and construction requirements of the applicable ANSI B56 standard in table 1. The agency also requests public comment on any other issues raised by OSHA's proposed revisions.

OSHA therefore finds that this proposed rule is not economically significant within the context of Executive Order 12866, or a major rule under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act. In addition, this proposed rule complies with Executive Order 13563 because it would allow employers increased flexibility in choosing powered industrial trucks for their employees and allow employers to keep practices that meet the requirements of the existing standard for trucks manufactured prior to the effective date of the final rule. Because the rule would impose no costs, OSHA certifies that it would not have a significant economic impact on a substantial number of small private or public sector entities and would not meet any of the criteria for an economically significant or major rule specified by the Executive order or relevant statutes.

C. OMB Review under the Paperwork Reduction Act of 1995

This proposed rule would not establish or revise any collection of information requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501. Accordingly, the agency did not submit an Information Collection Request to Office of Management and Budget (OMB) in association with this rulemaking.

Members of the public may respond to this paperwork determination by sending their written comments to the Office of Information and Regulatory Affairs, Attn: OSHA Desk Officer, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. The agency encourages commenters to also submit these comments to the rulemaking docket, along with their comments on other parts of this notice of proposed rulemaking. For instructions on submitting these comments and accessing the docket, see the sections of this *Federal Register* document titled DATES and ADDRESSES.

To make inquiries or to request other information related to information collection, contact Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone: (202) 693-4131; email: *Perryman.Seleda.M@dol.gov*.

D. Federalism

OSHA reviewed this notice of proposed rulemaking in accordance with the Executive order on federalism (Executive Order 13132, 64 FR 43255, August 4 1999), which requires that agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions that would restrict state policy options, and take such actions only when clear constitutional authority exists, and the problem is national in scope. Executive Order 13132 provides for preemption of state law only with the expressed consent of Congress. Agencies must limit any such preemption to the extent possible.

Under Section 18 of the OSH Act, 29 U.S.C. 651 et seq., Congress expressly provides that states may adopt, with Federal approval, a plan for the development and

enforcement of occupational safety and health standards (29 U.S.C. 667); OSHA refers to states that obtain Federal approval for such a plan as “State Plan states.” Occupational safety and health standards developed by State Plan states must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. 29 U.S.C. 667. Subject to these requirements, State Plan states are free to develop and enforce under state law their own requirements for occupational safety and health standards.

While OSHA drafted this proposed rule to protect employees in every state, Section 18(c)(2) of the OSH Act permits State Plan states and U.S. territories to develop and enforce their own standards for powered industrial trucks provided the requirements in these standards are at least as safe and healthful as the requirements specified in this proposed rule. In summary, this notice of proposed rulemaking complies with Executive Order 13132. In States without OSHA-approved State Plans, any standard developed from this proposed rule would limit State policy options in the same manner as every standard promulgated by OSHA. In States with OSHA-approved State Plans, this rulemaking would not significantly limit State policy options.

E. State Plan States

When Federal OSHA promulgates a new standard or a more stringent amendment to an existing standard, the 28 States and U.S. territories with their own OSHA-approved occupational safety and health plans must revise their standards to reflect the new standard or amendment. The State standard must be at least as effective as the final Federal standard or amendment and must be promulgated within six months of the publication date of the final Federal rule (29 U.S.C. 667(c)(2); 29 CFR 1953.5(a)).

A State Plan state may demonstrate that a standard change is unnecessary because the State standard is already the same as or at least as effective as the new or amended Federal standard. In order to avoid delays in worker protection, the effective

date of the State standard and any of its delayed provisions must be the date of State promulgation or the Federal effective date, whichever is later. The Assistant Secretary may permit a longer time period if the State timely demonstrates that good cause exists for extending the time limitation (29 CFR 1953.5(a)). Of the 28 States and territories with OSHA-approved State plans, 22 cover public and private-sector employees: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. Six States and territories cover only public-sector employees: Connecticut, Illinois, Maine, New Jersey, New York, and the Virgin Islands. When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than the existing standard, State Plan states are not required to amend their standards, although OSHA may encourage them to do so.

If OSHA promulgates this proposed rule, employers would be required to ensure that new equipment manufactured on or after the effective date of the final rule complies with the relevant ANSI B56 standard incorporated by reference in table 1 or, alternatively, with a future national consensus standard or no consensus standard provided that the employer can demonstrate that the design and construction of the truck provides at least the same degree of safety as the design and construction requirements of the applicable ANSI standard in table 1. States and territories with approved State Plans would be required to adopt comparable amendments within six months of OSHA's promulgation of the final rule, unless they demonstrate that such a change is not necessary because their existing standards are already the same, or at least as effective, as OSHA's new final rule. State Plans would also be permitted to choose to conform to other proposed revisions, including the proposed provision allowing compliance with other consensus standards that are at least as protective as the applicable consensus

standard incorporated by reference. OSHA seeks comment on this assessment of its proposal.

F. Unfunded Mandates Reform Act of 1995

OSHA reviewed this notice of proposed rulemaking according to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501-1571, and Executive Order 13132 (64 FR 43255) (1999). As discussed above in Section III.B (“Preliminary Economic Analysis and Regulatory Flexibility Certification”) of this preamble, OSHA preliminarily determined that the proposed rule would not impose additional costs on any private-sector or public-sector entity employers.

As noted above under Section III.E (“State Plan States”) of this preamble, OSHA standards do not apply to state or local governments except in states that elected voluntarily to adopt an OSHA-approved state plan. Consequently, this rulemaking does not meet the definition of a “Federal intergovernmental mandate.” See 2 U.S.C. 658(5). Therefore, for the purposes of the UMRA, OSHA certifies that this proposed rule would not mandate that state, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than \$100 million in any year.

G. Consultation and Coordination with Indian Tribal Governments

OSHA reviewed this notice of proposed rulemaking in accordance with Executive Order 13175, 65 FR 67249 (2000), and determined that it does not have “tribal implications” as defined in that order. If finalized, this rule would not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

H. Consultation with the Advisory Committee on Construction Safety and Health

Under 29 CFR parts 1911 and 1912, OSHA must consult with the Advisory Committee on Construction Safety and Health (ACCSH), established pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704), in setting standards for construction work. Specifically, 29 CFR 1911.10(a) requires the Assistant Secretary to provide ACCSH with a draft proposed rule (along with pertinent factual information) and give ACCSH an opportunity to submit recommendations. See also 29 CFR 1912.3(a).

On July 1, 2020, OSHA presented its proposal to update the agency's powered industrial trucks standards, including its construction standard at 29 CFR 1926.602, to ACCSH. The Committee subsequently passed a motion recommending that the agency move forward in the rulemaking process. (See the minutes from the meeting, Docket No. 2020-0003).

List of Subjects in 29 CFR Parts 1910 and 1926

Incorporation by reference, Occupational safety and health, Powered industrial trucks.

Authority and Signature

Douglas L. Parker, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, authorized the preparation of this document. OSHA is issuing this document pursuant to 29 U.S.C. 653, 655, and 657; 40 U.S.C. 3701 *et seq.*; 5 U.S.C. 553; Secretary of Labor's Order 8-2020, 85 FR 58393 (2020); and 29 CFR part 1911.

Signed at Washington, DC, on January 7, 2022.

Douglas L. Parker,
Assistant Secretary for Occupational Safety and Health.

Amendments to Standards

For the reasons stated above in the preamble, the Occupational Safety and Health Administration proposes to amend 29 CFR parts 1910 and 1926 as follows:

PART 1910—[AMENDED]

Subpart A—[Amended]

1. The authority citation for subpart A of part 1910 is revised to read as follows:

AUTHORITY: 29 U.S.C. 653, 655, 657; Secretary of Labor’s Order Numbers 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31159), 4-2010 (75 FR 55355), 1-2012 (77 FR 3912), or 8-2020 (85 FR 58393), as applicable.

Sections 1910.6, 1910.7, 1910.8, and 1910.9 also issued under 29 CFR part 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Pub. L. 106-113, 113 Stat. 1501A-222; Pub. L. 111-8, 123 Stat. 524, and Pub. L. 111-317, 124 Stat. 3454; and OMB Circular A-25 (58 FR 38142).

2. Amend § 1910.6 by:

- a. Redesignating paragraphs (e)(30), (32), and (34) as paragraphs (e)(33), (34), and (35), respectively;
- b. Adding new paragraph (e)(30), paragraph (e)(31), and new paragraph (e)(32); and
- c. In newly redesignated paragraph (e)(34), removing “1910.266(e)(2)(i)” and adding “§ 1910.266(e)(2)(i)” in its place.

The additions read as follows:

§ 1910.6 Incorporation by reference.

* * * * *

(e) * * *

(30) ANSI/ITSDF B56.1-2020, Safety Standards for Low Lift and High Lift Trucks; IBR approved for § 1910.178(a).

(31) ANSI/ITSDF B56.5-2019, Safety Standard for Driverless, Automatic Guided Industrial Vehicles and Automated Functions of Manned Industrial Vehicles; IBR approved for § 1910.178(a).

(32) ANSI/ITSDF B56.6-2021, Safety Standard for Rough Terrain Forklift Trucks; IBR approved for § 1910.178(a).

* * * * *

Subpart N—[Amended]

3. The authority citation for subpart N of part 1910 is revised to read as follows:

AUTHORITY: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31159), 4-2010 (75 FR 55355), 1-2012 (77 FR 3912), or 8-2020 (85 FR 58393), as applicable; and 29 CFR part 1911.

4. Amend § 1910.178 by revising paragraphs (a)(2) and (3) to read as follows:

§ 1910.178 Powered industrial trucks.

(a) * * *

(2)(i) All powered industrial trucks manufactured before [DATE 30 DAYS AFTER PUBLICATION OF THE FINAL RULE] and used by an employer shall meet the design and construction requirements for powered industrial trucks established in either:

(A) The “American National Standard for Powered Industrial Trucks, Part II, ANSI B56.1-1969,” which is incorporated by reference in § 1910.6; or

(B) The applicable ANSI B56 standard in table 1 to this paragraph (a)(2).

(ii) Powered industrial trucks manufactured before [DATE 30 DAYS AFTER PUBLICATION OF THE FINAL RULE] that the employer can demonstrate are at least as protective as powered industrial trucks that are designed and constructed in accordance

with one of the consensus standards listed in paragraph (a)(2)(i) of this section will be deemed to be in compliance with the requirements of paragraph (a)(2)(i) of this section.

(iii) All powered industrial trucks manufactured on or after [DATE 30 DAYS AFTER PUBLICATION OF THE FINAL RULE] and used by an employer shall meet the design and construction requirements for powered industrial trucks established by the applicable ANSI B56 standard in table 1 to this paragraph (a)(2).

(iv) Powered industrial trucks manufactured on or after [DATE 30 DAYS AFTER PUBLICATION OF THE FINAL RULE] that the employer can demonstrate are at least as protective as powered industrial trucks that are designed and constructed in accordance with the applicable ANSI B56 standard in table 1 to this paragraph (a)(2) will be deemed to be in compliance with the requirements of paragraph (a)(2)(iii) of this section.

Table 1 to paragraph (a)(2)

Design and Construction Requirements for Powered Industrial Trucks in ANSI B56¹
ANSI/ITSDF B56.1 – 2020, Safety Standard for Low Lift and High Lift Trucks
ANSI/ITSDF B56.5 – 2019, Safety Standard for Driverless, Automatic Guided Industrial Vehicles and Automated Functions of Manned Industrial Vehicles
ANSI/ITSDF B56.6 – 2021, Safety Standard for Rough Terrain Forklift Trucks

¹Incorporated by reference, see § 1910.6.

(3) Approved trucks shall bear a label or some other identifying mark indicating approval by the testing laboratory. See paragraph (a)(7) of this section and paragraph 405 of ANSI B56.1-1969 or the design and construction requirements of the applicable ANSI B56 standard in table 1 to paragraph (a)(2) of this section, which require powered industrial trucks that are accepted by a nationally recognized testing laboratory to be so marked.

* * * * *

PART 1926—[AMENDED]

Subpart A—[Amended]

5. The authority citation for subpart A of part 1926 is revised to read as follows:

AUTHORITY: 40 U.S.C. 3701 *et seq.*; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31160), 4-2010 (75 FR 55355), 1-2012 (77 FR 3912), or 8-2020 (85 FR 58393), as applicable; and 29 CFR part 1911.

6. Amend § 1926.6 by adding paragraphs (e)(17) through (19) to read as follows:

§ 1926.6 Incorporation by reference.

* * * * *

(e) * * *

(17) ANSI/ITSDF B56.1-2020, Safety Standards for Low Lift and High Lift Trucks; IBR approved for § 1926.602(c).

(18) ANSI/ITSDF B56.5-2019, Safety Standard for Driverless, Automatic Guided Industrial Vehicles and Automated Functions of Manned Industrial Vehicles; IBR approved for § 1926.602(c).

(19) ANSI/ITSDF B56.6-2021, Safety Standard for Rough Terrain Forklift Trucks; IBR approved for § 1926.602(c).

* * * * *

Subpart O—[Amended]

7. The authority citation for subpart O of part 1926 is revised to read as follows:

AUTHORITY: 40 U.S.C. 333; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 5-2007 (72 FR 31159), 4-2010 (75 FR 55355), 1-2012 (77 FR 3912), or 8-2020 (85 FR 58393), as applicable. Section 1926.602 also issued under 29 CFR part 1911.

8. Amend § 1926.602 by revising paragraph (c)(1)(v) and (vi) to read as follows:

§ 1926.602 Material handling equipment.

* * * * *

(c) * * *

(1) * * *

(v) All high-lift rider industrial trucks shall be equipped with overhead guards which meet the design requirements provided in paragraph (c)(1)(vi) of this section.

(vi)(A) All industrial trucks manufactured before [DATE 30 DAYS AFTER PUBLICATION OF THE FINAL RULE] and used by an employer shall meet the design and construction requirements for powered industrial trucks established in either:

(I) The “American National Standard for Powered Industrial Trucks, Part II, ANSI B56.1-1969,” which is incorporated by reference in § 1926.6; or

(2) The applicable ANSI B56 standard in table 1 to this paragraph (c)(1)(vi).

(B) Powered industrial trucks manufactured before [DATE 30 DAYS AFTER PUBLICATION OF THE FINAL RULE] that the employer can demonstrate are at least as protective as powered industrial trucks that are designed and constructed in accordance with one of the consensus standards listed in paragraph (c)(1)(vi)(A) of this section will be deemed to be in compliance with the requirements of paragraph (c)(1)(vi)(A) of this section.

(C) All industrial trucks manufactured on or after [DATE OF PUBLICATION OF THE FINAL RULE] and used by an employer shall meet the design and construction requirements for powered industrial trucks established in the applicable ANSI B56 standard in table 1 to this paragraph (c)(1)(vi).

(D) Powered industrial trucks manufactured on or after [DATE 30 DAYS AFTER PUBLICATION OF THE FINAL RULE] that the employer can demonstrate are at least as protective as powered industrial trucks that are designed and constructed in accordance with the applicable ANSI B56 standard in table 1 to this paragraph (c)(1)(vi)

will be deemed to be in compliance with the requirements of paragraph (c)(1)(vi)(C) of this section.

(E) All industrial trucks in use shall meet the applicable requirements of stability, inspection, testing, maintenance, and operation, as defined in American National Standards Institute B56.1-1969, Safety Standards for Powered Industrial Trucks.

Table 1 to paragraph (c)(1)(vi)

Design and Construction Requirements for Powered Industrial Trucks in ANSI B56¹
ANSI/ITSDF B56.1 – 2020, Safety Standard for Low Lift and High Lift Trucks
ANSI/ITSDF B56.5 – 2019, Safety Standard for Driverless, Automatic Guided Industrial Vehicles and Automated Functions of Manned Industrial Vehicles
ANSI/ITSDF B56.6 – 2021, Safety Standard for Rough Terrain Forklift Trucks

¹ Incorporated by reference, see § 1926.6.

* * * * *

[FR Doc. 2022-01155 Filed: 2/15/2022 8:45 am; Publication Date: 2/16/2022]